IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Bail Appl..No. 4020 of 2007()

AGAINST THE JUDGEMENT/ORDER IN BA.3492/2007
CRIME NO.538/07 OF KUNNAMKULAM POLICE STATION

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PETITIONER

PRADEEP, AGED 45 YEARS,
S/O SUBRAMANIAN, MANDAKATHINKAL HOUSE,
VETTUKKAD, ALOOR VILLAGE,
THALAPPILLY TALUK, THRISSUR DISTRICT.

BY ADV. SRI.P.RAMACHANDRAN

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
KUNNAMKULAM POLICE STATION, KUNNAMKULAM,
THRISSUR DISTRICT.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 4020 OF 2007

Dated this the 10th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner is the 2nd accused. Altogether there were three accused persons. The principal accused i.e., the 1st accused has already been arrested and enlarged on bail. The petitioner apprehends arrest. The crux of the allegation is that the 1st accused came in a motor-cycle in which there were three persons and allegedly attacked the de facto complainant with an iron rod. The allegation of culpability is raised primarily against the 1st accused. Second and third accused are alleged to be vicariously liable for the crime with the help of Sec.34 of the IPC. The alleged incident took place on 25/5/07.

2. The learned counsel for the petitioner submits that

the petitioner is absolutely innocent. Even accepting all allegations, the allegations raised under Sec.308 of the IPC is not justified at all. Against the petitioner, no specific culpable overt act is alleged. The principal accused has already been enlarged on bail also. The petitioner is willing to co-operate with the Investigator. The inclusion of Sec.308 of the IPC is with the sole intention of vexing and harassing the petitioner and the co-accused. In these circumstances, directions under Sec.438 of the Cr.P.C. may be issued, prays the learned counsel for the petitioner.

3. The learned Public Prosecutor does not raise any serious objection. Subject to appropriate conditions, which shall ensure the interests of a proper, efficient and expeditious investigation, anticipatory bail can be granted to the petitioner, it is submitted.

4. Having considered all the relevant inputs, I am satisfied this is a fit case where subject to appropriate conditions anticipatory bail can be granted to the petitioner herein.

5. In the absence of serious objection from the learned Public Prosecutor, it is not necessary for me to advert to the facts in any greater detail.

6. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 17/7/07. He shall be released on regular bail on his executing a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 18/7/07 and 19/7/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, he shall so make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender

on 17/7/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 17/7/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge